

JOHNSON v. D.C. RENTAL HOUSING COMMISSION, 642 A.2<sup>nd</sup> 135 (1994)

Court: D.C. Court of Appeals, opinion by Farrell, A.J.

Judicial History: Tenant petitioned for review of decision of Rental Housing Commission (RHC) which reversed decision by Rental Accommodation and Conversion Division (RACD) voiding rent increases by the landlord.

Facts: This appeal involved a decision of the RHC which in turn reversed a decision by an RACD hearing examiner voiding two rent increases implemented by the housing providers. On the owner's appeal from the RACD decision, the RHC determined that the hearing examiner erred in failing to apply *res judicata* principles which would have resulted in the conclusion that the housing accommodation was exempt from the rent increase restrictions of the Rental Housing Act (the Act), as determined in a prior proceeding involving the same parties. Therefore, the RHC did not reach the owners' contention on the merits that the RACD erred in determining that they operated the rental unit as a partnership and for that reason were not exempt from the Act's coverage. Tenants then brought this appeal.

Holding: The Court of Appeals held that RHC improperly determined that landlord was exempt from rent increase restrictions of Rental Housing Act under *res judicata* principles, inasmuch as RHC improperly took official notice of entire RACD file in concluding that tenant petitioner had been party to prior proceeding, and prior RACD decision was insufficient to prove that tenant had been party to prior proceeding.

Reasoning: Statement of party's counsel to hearing examiner, that he recalled that party to present action had not been party to prior action, did not rise to level of judicial admission; statement made from memory in course of action was not sufficiently formal to constitute judicial admission.

Decision: Reversed and remanded.